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CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY  DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PAMELA STICKLER,

Plaintiff,

vs.

RICHARD STEWART,

Defendant.

CASE NO. 12-cv-611 – BEN (POR)

ORDER:

(1) GRANTING REQUEST TO
PROCEED *IN FORMA PAUPERIS*,
[Doc. No. 2];

(2) *SUA SPONTE* DISMISSING
COMPLAINT; and

(3) DENYING AS MOOT MOTION TO
APPOINT COUNSEL, [Doc. No. 3].

Plaintiff Pamela Strickler, proceeding *pro se*, has filed a complaint seeking recovery of “legal papers” and a “1998 Toyota Tacoma.” [Doc. No. 1.] Plaintiff has not paid the \$350 civil filing fee required to commence this action, but has filed a motion to proceed *in forma pauperis*. [Doc. No. 2.] Plaintiff also filed a motion to appoint counsel. [Doc. No. 3.] For the reasons set forth below, the Court hereby **GRANTS** the motion to proceed *in forma pauperis*, *sua sponte* screens and **DISMISSES** the complaint, and **DENIES AS MOOT** the motion to appoint counsel.

DISCUSSION

I. Motion to proceed *in forma pauperis*

Parties instituting any civil action in a district court of the United States, except an application for a writ of habeas corpus, must pay a filing fee of \$350. *See* 28 U.S.C. § 1914(a). An action may

1 proceed despite a plaintiff's failure to prepay the entire fee only if the plaintiff is granted leave to
 2 proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176,
 3 1177 (9th Cir. 1999). Having reviewed Plaintiff's declaration in support of her motion to proceed *in*
 4 *forma pauperis*, the Court finds it sufficient to show that she is unable to pay the fees or post securities
 5 required to maintain this action. Accordingly, the Court **GRANTS** Plaintiff's motion to proceed *in*
 6 *forma pauperis* pursuant to 28 U.S.C. § 1915(a).

7 **II. Sua sponte screening**

8 An *in forma pauperis* complaint is subject to mandatory screening. Pursuant to 28 U.S.C.
 9 § 1915(e)(2)(B), notwithstanding any filing fee, the Court must dismiss any complaint if at any time
 10 the Court determines that it is "frivolous or malicious," "fails to state a claim on which relief may be
 11 granted," or "seeks monetary relief against a defendant who is immune from such relief." The *sua*
 12 *sponte* screening is mandatory. *See Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc);
 13 *see also Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) (per curiam) ("[T]he provisions of 28
 14 U.S.C. § 1915(e)(2)(B) are not limited to prisoners." (citation omitted)).

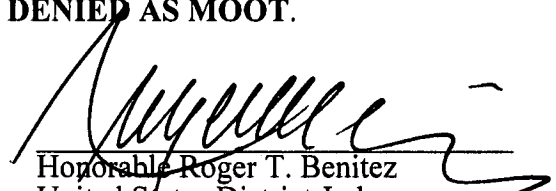
15 In this case, Plaintiff's one-paragraph complaint fails to state any constitutional or statutory
 16 ground for relief, nor does it allege any basis for this Court's jurisdiction. Accordingly, the complaint
 17 is hereby **DISMISSED** because it fails to allege sufficient factual matter, accepted as true, to state a
 18 plausible claim to relief. *See Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009); *see also Barren v.*
 19 *Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) ("The language of § 1915(e)(2)(B)(ii)
 20 parallels the language of Federal Rule of Civil Procedure 12(b)(6).").

21 **CONCLUSION**

22 Plaintiff's motion to proceed *in forma pauperis* is **GRANTED**. Plaintiff's complaint is hereby
 23 **DISMISSED WITH LEAVE TO AMEND** for failure to state a claim. If Plaintiff wishes to amend
 24 her complaint, she should file the amended complaint no later than **April 23, 2012**. In light of the
 25 dismissal, Plaintiff's motion to appoint counsel is **DENIED AS MOOT**.

26 **IT IS SO ORDERED.**

27 Date: April 2, 2012

28 
 Honorable Roger T. Benitez
 United States District Judge